

REMARKS

Claims 1-81, all the claims pending in the application, stand rejected on prior art grounds. Claims 1-30 and 33-38 stand rejected upon informalities. Applicants respectfully traverse these rejections based on the following discussion.

I. The 35 U.S.C. §112, Second Paragraph, Rejections

Claims 1-81 stand rejected under 35 U.S.C. §112, second paragraph. Specifically, the Office Action states that Applicants should properly correct all claims for antecedent basis errors. Claims 1 – 7, 13 – 18, 21, 23 – 34, 40 – 45, 48, 50 – 61, 67 – 72, 75, and 77 – 81 have been amended, above, to provide sufficient antecedent basis for all of the claimed elements.

The Office Action also states that in regards to claims 2, 29, and 56, “the limitation such as ‘should take place’ and ‘should not take place’ is not clear”. Claims 2, 29, and 56 have been amended by Applicants, above, to clearly define that the transactions that should take place and the transactions that should not take place are determined “from amongst various possibilities given said effects of uncertainty and said risk factors”.

In addition, the Office Action states that in regards to claims 3, 30, and 57, “[t]he limitations do not clearly define whether the contract is for buy or sell at future date”. Applicants have amended claims 3, 30, and 57, above, to clearly define that “said prices derivatives provide contractable rates of identical goods or services derived from primary goods or services being negotiated for one of purchase and sale at specified future dates”.

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw these rejections.

09/901,227

23

II. The Prior Art Rejections

Claims 1-81 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lange (U.S. Patent No. 6,321,212), in view of May (U.S. Patent No. 2002/0002530 A1). Applicants respectfully traverse these rejections based on the following discussion.

The claimed invention provides a method, system, and computer program product for enabling online incorporation of the effects of uncertainty and risk factors while negotiating e-commerce transactions. In the rejection, the Office Action argues that Lange teaches an updated database of currency exchange derivatives and an online database of customized information related to risks at a given point of time for specified transactions. However, Lange merely provides a generalized teaching of derivatives trading and derivative security; nothing within Lange teaches an updated database of *currency exchange* derivatives. Furthermore, the observation period in Lange only determines outcomes of events for the purpose of allocating returns; it does not determine information related to risks at a given point of time for specified transactions. Therefore, as explained in greater detail below, Applicants respectfully submit that the prior art of record does not teach or suggest the claimed invention.

The Office Action asserts that Lange discloses maintaining an updated online database of currency exchange derivatives (Office Action, middle of p. 4 (citing Lange, col. 1 lines 34-56; col. 2 lines 20-51; col. 7 line 63 – col. 8 line 17; and, col. 92 line 23)). The portions of Lange that the Office Action cites as support for this contention provide an in-depth background discussion of electronic Internet-based trading of financial products, and more particularly, to

09/901,227

24

online trading of securities, equities, bonds, and financial instrument derivatives (col. 1 lines 34-56 and col. 2 lines 20-51). The cited portions of Lange further provide a general teaching of derivative securities (col. 7 line 63 – col. 8 line 17) and a method of updating trader accounts to reflect payouts on financial returns (col. 92 line 23).

However, nothing within Lange, including the portions cited by the Office Action, discloses an updated online database that includes *currency exchange* derivatives. Such a feature is defined in independent claims 1, 28, and 55 using the following language:

“maintaining ... an updated online database of currency exchange derivatives associated with each activity involved in completing said transactions”.

More specifically, as provided in paragraphs 0003 - 0005 of Applicants' disclosure, an electronic commerce transaction is faced with a number of uncertainties and risks, which are not adequately handled by the existing systems and methods for electronic commerce. These uncertainties and risks may originate from currency fluctuations. Fluctuating currency exchange rates become particularly important for trans-national commerce. When the two counterparties to an online negotiation have different currencies, the fluctuation of currencies exposes at least one of them to foreign exchange risk. This is a serious impediment in the successful internationalization of e-commerce. The prior art does not provide for a means by which the negotiation and matching process can itself take into account, the currency fluctuation effects and can effectively make use of the third party services (such as those providing contractable rates for present and future dates) for matching and price setting as well as for hedging.

Although the Office Action asserts that Lange discloses electronic databases, none of the databases disclosed in Lange include currency exchange derivatives. More specifically, as

provided in column 90 lines 50-57 of Lange, the types of databases within the data storage devices 260 comprise: (1) Trader and Account databases 261; (2) Market Returns databases 262; (3) Market Data databases 263; (4) Event Data databases 264; (5) Risk databases 265; (6) Trade Blotter databases 266; and (7) Contingent Claims Terms and Conditions databases 267. The above-mentioned databases 260 – 267 do not include a currency exchange database. Applicants submit that nothing within Lange teaches or suggests that the data storage devices 260 can comprise a database including currency exchange derivatives.

Furthermore, the Office Action asserts that Lange discloses updating “trader accounts” (Lange, col. 92 line 23), wherein the trader accounts record interest paid to traders on open demand-based adjustable return (DBAR) contingent claim balances and to debit trader balances for margin loan interest (Lange, col. 20 line 65 – col. 21 line 2). Moreover, the Office Action argues that Lange discloses updating a “trader’s credit rating” (Lange, col. 92 line 58). However, nothing within Lange, including the portions cited by the Office Action, teaches or suggests updating an online database of currency exchange derivatives. Rather, Lange only teaches updating records relating to payouts to traders and credit ratings of traders and not to currency exchange.

Therefore, Applicants submit that nothing within Lange, including the portions cited by the Office Action, teaches or suggests an updated database of currency exchange derivatives. Rather, the portions cited by the Office Action merely provide a generalized teaching of derivatives trading and derivative security. Moreover, Lange only teaches updating records relating to traders. Therefore, it is Applicants’ position that Lange fails to teach or suggest the claimed feature of “maintaining ... an updated online database of currency exchange derivatives

associated with each activity involved in completing said transactions” as defined in independent claims 1, 28, and 55.

In addition, the Office Action argues that Lange discloses maintaining an online database of customized information related to risks at a given point of time for specified transactions (Office Action, bottom of p. 4). In support for this contention, the Office Action references the “observation period” discussed in column 17 lines 32 – 36 and column 21 lines 53 – 56 of Lange.

The cited portions of Lange disclose that the observation period can be provided as a time period during which the contingent events are observed and the relevant outcomes determined for the purpose of allocating returns. Real-time market data may be provided to support frequent calculation of returns and to ascertain the outcomes during the observation periods.

However, the observation period does not determine information related to risks. Rather, Lange only discloses determining *outcomes* of events during the observation period “for the purpose of allocating returns”. As further provided in column 98 lines 43 – 45 of Lange, process 429 in FIG. 5 represents the observation period during which the outcome of the event underlying the contingent claim is observed. Applicants respectfully submit that Lange fails to teach or suggest determining information relating to *risks* during the observation period, because Lange only determines outcomes, not risks.

Furthermore, Applicants submit that the event outcomes determined during the observation period of Lange are not maintained in an online database. As discussed above, the Office Action asserts that Lange discloses electronic databases; however, nothing within Lange teaches a database of customized information related to risks at a given point of time for

specified transactions. As provided in column 90 lines 50-57 of Lange, the types of databases within the data storage devices 260 comprise: (1) Trader and Account databases 261; (2) Market Returns databases 262; (3) Market Data databases 263; (4) Event Data databases 264; (5) Risk databases 265; (6) Trade Blotter databases 266; and (7) Contingent Claims Terms and Conditions databases 267. The above-mentioned databases 260 – 267 do not include a database of customized information related to risks at a given point of time for specified transactions. Applicants submit that nothing within Lange teaches or suggests that the data storage devices 260 can comprise a database including customized information related to risks at a given point of time for specified transactions.

Therefore, it is Applicants' position that Lange fails to teach or suggest the claimed feature of "maintaining ... an online database of customized information related to risks at a given point of time for specified transactions" as defined in independent claims 1, 28, and 55.

Therefore, it is Applicants' position that the proposed combination of Lange and May would not result in the claimed invention; and as such, independent claims 1, 28, and 55 are patentable over the prior art of record. Further, it is Applicants' position that dependent claims 2-27, 29-54, and 56-81 are similarly patentable, not only because of their dependency from a patentable independent claims, but also because of the additional features of the invention they defined. In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the rejections.

II. Formal Matters and Conclusion

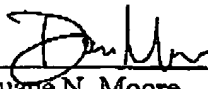
With respect to the rejections to the claims, the claims have been amended, above, to overcome these rejections. In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the rejections to the claims.

In view of the foregoing, Applicants submit that claims 1-81, all the claims presently pending in the application, are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary. Please charge any deficiencies and credit any overpayments to Attorney's Deposit Account Number 09-0441.

Respectfully submitted,

Dated: 7/18/06


Duane N. Moore
Registration No. 53,352

Gibb I.P. Law Firm, LLC
2568-A Riva Road, Suite 304
Annapolis, MD 21401
Voice: (410) 573-6501
Fax: (301) 261-8825
Customer Number: 29154